

1 The Honorable Thomas S. Zilly
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 SHOUKAT H. ALI,
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Plaintiff,

No. C19-01260 TSZ

BRIEFING SCHEDULE AND ORDER

12 v.
13
14 MICHAEL RICHARD POMPEO, *et al.*,
15
16 Defendants.

17 The Parties, through undersigned counsel, hereby STIPULATE and AGREE to the
18 following briefing schedule for Defendants' pre-answer motion to dismiss:

Filing	Deadline
Defendants' Motion to Dismiss	October 2, 2020
Plaintiffs' Response to the Motion to Dismiss	October 30, 2020
Defendants' Reply	November 6, 2020

23 Pursuant to the Parties extension request, the Court ordered that the parties file a Joint
24 Status Report by August 31, 2020. Dkt. No. 19. The parties requested the extension to allow
25 Defendants to review the Amended Complaint, filed on August 19, 2020. Dkt. No. 17. The
26 parties agree that the litigation is exempt from the Federal Rule of Civil Procedure 26 initial
27 disclosure requirement, discovery conference and discovery plan. Fed. R. Civ. Pro. 26(a)(1)(B)

1 & 26(f). Accordingly, the Parties respectfully request that the Court accept the above briefing
 2 schedule in lieu of a joint status report.

3 Plaintiff seeks an order under the Administrative Procedure Act (“APA”) and similarly a
 4 writ of mandamus to compel the U.S. Consular General in Islamabad, Pakistan to complete
 5 another adjudication/finish adjudication of an immigrant visa application of his son and his
 6 family. On July 25, 2020, the immigrant visa was refused under Presidential Proclamation of
 7 April 22, 2020 (PP 10014), and which was extended by the President’s June 22, 2020
 8 Proclamation (PP10052 - June Proclamation).

9 Defendants’ intend to file a motion to dismiss the Amended Complaint. Defendants assert
 10 that the denial of the visa is not judicially reviewable. The doctrine of consular nonreviewability
 11 bars review of a consular officer’s decision to issue or refuse an alien’s visa application. *Li Hing*
 12 *of Hong Kong, Inc. v. Levin*, 800 F.2d 970, 971 (9th Cir. 1986) (“...[I]t has been consistently
 13 held that the consular official's decision to issue or withhold a visa is not subject either to
 14 administrative or judicial review.”) (citations omitted); *Allen v. Milas*, 896 F.3d 1094, 1108 (9th
 15 Cir. 2018) (“We join the D.C. Circuit in holding that the APA provides no avenue for review of a
 16 consular officer's adjudication of a visa on the merits. Whether considered under § 702(1) or (2),
 17 the doctrine of consular nonreviewability is a limitation on the scope of our judicial review and
 18 thus precludes our review under § 706.”); *Trump v. Hawaii*, 138 S. Ct. 2392, 2419 (2018) (“In
 19 *Din*, Justice Kennedy reiterated that ‘respect for the political branches’ broad power over the
 20 creation and administration of the immigration system’ meant that the Government need provide
 21 only a statutory citation to explain a visa denial.”)(quoting *Kerry v. Din*, 135 S. Ct. 2128, 2141
 22 (2015)(Kennedy, J., concurring)).

23 Plaintiffs assert that the Amended Complaint argues at minimum that the Presidential
 24 Proclamation legal authority only goes to barring admission, and that it cannot bar the issuance
 25 of the visa. Plaintiffs’ factual position is that this visa rejection specifically states “Presidential
 26 Proclamation” and has nothing to do with any decision made by the consular official.

27 Defendants’ motion to dismiss, if granted, would resolve this matter in its entirety.
 Furthermore, the parties agree that the discovery requirements of Federal Rule of Civil Procedure

1 26 do not apply to this matter. Accordingly, good cause exists to grant the briefing schedule in
2 lieu of a joint status report.

3 Dated: August 31, 2020

4 Respectfully submitted,

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13 Attorney for Plaintiffs

14 Attorney for Defendants

15 **ORDER**

16 Pursuant to the parties' stipulation, docket no. 20, the following schedule is SO
17 ORDERED:

Filing	Deadline
Defendants' Motion to Dismiss	October 2, 2020
Plaintiff's Response to the Motion to Dismiss	October 30, 2020
Defendants' Reply	November 6, 2020

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22 DATED this 1st day of September, 2020.

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25 Thomas S. Zilly
26 United States District Judge